

109TH CONGRESS  
2D SESSION

# S. 3652

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

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## IN THE SENATE OF THE UNITED STATES

JULY 13, 2006

Ms. MIKULSKI (for herself and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Law Enforcement Offi-  
5       cers Retirement Equity Act”.

### 6   **SEC. 2. AMENDMENTS.**

7       (a) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—

1           (1) IN GENERAL.—Paragraph (17) of section  
 2       8401 of title 5, United States Code, is amended by  
 3       striking “and” at the end of subparagraph (C), and  
 4       by adding at the end the following:

5                   “(E) an employee (not otherwise covered  
 6       by this paragraph)—

7                           “(i) the duties of whose position in-  
 8       clude the investigation or apprehension of  
 9       individuals suspected or convicted of of-  
 10      fenses against the criminal laws of the  
 11      United States; and

12                           “(ii) who is authorized to carry a fire-  
 13      arm; and

14                   “(F) an employee of the Internal Revenue  
 15      Service, the duties of whose position are pri-  
 16      marily the collection of delinquent taxes and the  
 17      securing of delinquent returns;”.

18           (2) CONFORMING AMENDMENT.—Section  
 19      8401(17)(C) of title 5, United States Code, is  
 20      amended by striking “(A) and (B)” and inserting  
 21      “(A), (B), (E), and (F)”.

22           (b) CIVIL SERVICE RETIREMENT SYSTEM.—Para-  
 23      graph (20) of section 8331 of title 5, United States Code,  
 24      is amended in the matter before subparagraph (A) by in-  
 25      serting after “position.” the following: “For the purpose

1 of this paragraph, the employees described in the pre-  
 2 ceding provision of this paragraph (in the matter before  
 3 ‘including’) shall be considered to include an employee  
 4 (not otherwise covered by this paragraph) who satisfies  
 5 clauses (i) and (ii) of section 8401(17)(E) and an em-  
 6 ployee of the Internal Revenue Service the duties of whose  
 7 position are as described in section 8401(17)(F).’.

8 (c) EFFECTIVE DATE.—Except as provided in section  
 9 3, the amendments made by this section shall take effect  
 10 on the date of the enactment of this Act, and shall apply  
 11 only in the case of any individual first appointed (or seek-  
 12 ing to be first appointed) as a law enforcement officer  
 13 (within the meaning of those amendments) on or after  
 14 such date.

15 **SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUM-**  
 16 **BENTS.**

17 (a) LAW ENFORCEMENT OFFICER AND SERVICE DE-  
 18 SCRIBED.—

19 (1) LAW ENFORCEMENT OFFICER.—Any ref-  
 20 erence to a law enforcement officer described in this  
 21 subsection refers to an individual who satisfies the  
 22 requirements of section 8331(20) or 8401(17) of  
 23 title 5, United States Code (relating to the definition  
 24 of a law enforcement officer) by virtue of the amend-  
 25 ments made by section 2.

1           (2) SERVICE.—Any reference to service de-  
 2           scribed in this subsection refers to service performed  
 3           as a law enforcement officer (as described in this  
 4           subsection).

5           (b) INCUMBENT DEFINED.—For purposes of this sec-  
 6           tion, the term “incumbent” means an individual who—

7                 (1) is first appointed as a law enforcement offi-  
 8                 cer (as described in subsection (a)) before the date  
 9                 of the enactment of this Act; and

10                (2) is serving as such a law enforcement officer  
 11                on such date.

12           (c) TREATMENT OF SERVICE PERFORMED BY INCUM-  
 13           BENTS.—

14                 (1) IN GENERAL.—Service described in sub-  
 15                 section (a) which is performed by an incumbent on  
 16                 or after the date of the enactment of this Act shall,  
 17                 for all purposes (other than those to which para-  
 18                 graph (2) pertains), be treated as service performed  
 19                 as a law enforcement officer (within the meaning of  
 20                 section 8331(20) or 8401(17) of title 5, United  
 21                 States Code, as appropriate), irrespective of how  
 22                 such service is treated under paragraph (2).

23                 (2) RETIREMENT.—Service described in sub-  
 24                 section (a) which is performed by an incumbent be-  
 25                 fore, on, or after the date of the enactment of this

1 Act shall, for purposes of subchapter III of chapter  
2 83 and chapter 84 of title 5, United States Code, be  
3 treated as service performed as a law enforcement  
4 officer (within the meaning of such section 8331(20)  
5 or 8401(17), as appropriate), but only if an appro-  
6 priate written election is submitted to the Office of  
7 Personnel Management within 5 years after the date  
8 of the enactment of this Act or before separation  
9 from Government service, whichever is earlier.

10 (d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-  
11 ICE.—

12 (1) IN GENERAL.—An individual who makes an  
13 election under subsection (c)(2) may, with respect to  
14 prior service performed by such individual, con-  
15 tribute to the Civil Service Retirement and Disability  
16 Fund the difference between the individual contribu-  
17 tions that were actually made for such service and  
18 the individual contributions that should have been  
19 made for such service if the amendments made by  
20 section 2 had then been in effect.

21 (2) EFFECT OF NOT CONTRIBUTING.—If no  
22 part of or less than the full amount required under  
23 paragraph (1) is paid, all prior service of the incum-  
24 bent shall remain fully creditable as law enforcement  
25 officer service, but the resulting annuity shall be re-

duced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term “prior service” means, with respect to any individual who makes an election under subsection (c)(2), service (described in subsection (a)) performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (c)(2), the agency in or under which that individual was serving at the time of any prior service (referred to in subsection (d)) shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and

1       Disability Fund (above those actually paid) that  
 2       would have been required if the amendments made  
 3       by section 2 had then been in effect.

4           (3) CONTRIBUTIONS TO BE MADE RATABLY.—  
 5       Government contributions under this subsection on  
 6       behalf of an incumbent shall be made by the agency  
 7       ratably (on at least an annual basis) over the 10-  
 8       year period beginning on the date referred to in sub-  
 9       section (d)(3).

10       (f) EXEMPTION FROM MANDATORY SEPARATION.—  
 11       Nothing in section 8335(b) or 8425(b) of title 5, United  
 12       States Code, shall cause the involuntary separation of a  
 13       law enforcement officer (as described in subsection (a))  
 14       before the end of the 3-year period beginning on the date  
 15       of the enactment of this Act.

16       (g) REGULATIONS.—The Office of Personnel Man-  
 17       agement shall prescribe regulations to carry out this Act,  
 18       including—

19           (1) provisions in accordance with which interest  
 20       on any amount under subsection (d) or (e) shall be  
 21       computed, based on section 8334(e) of title 5,  
 22       United States Code; and

23           (2) provisions for the application of this section  
 24       in the case of—

25           (A) any individual who—

1 (i) satisfies paragraph (1) (but not  
2 paragraph (2)) of subsection (b); and

3 (ii) serves as a law enforcement offi-  
4 cer (as described in subsection (a)) after  
5 the date of the enactment of this Act; and  
6 (B) any individual entitled to a survivor  
7 annuity (based on the service of an incumbent,  
8 or of an individual under subparagraph (A),  
9 who dies before making an election under sub-  
10 section (c)(2)), to the extent of any rights that  
11 would then be available to the decedent (if still  
12 living).

13 (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be considered to apply in the case of a reem-  
15 ployed annuitant.

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